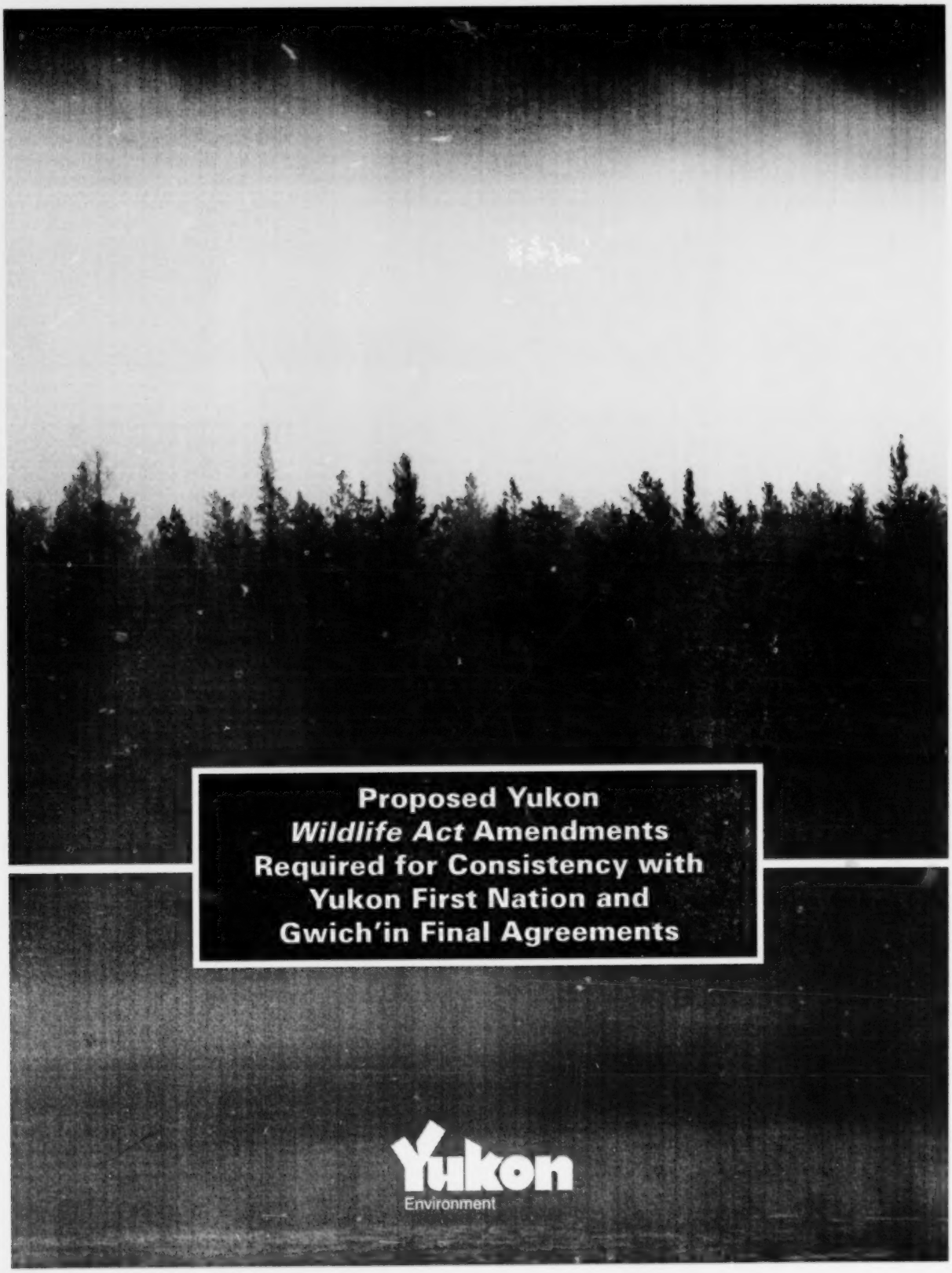

Proposed Yukon *Wildlife Act* Amendments Required for Consistency with Yukon First Nation and Gwich'in Final Agreements

Yukon
Environment

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Proposed Yukon *Wildlife Act* Amendments Required for Consistency with Yukon First Nation and Gwich'in Final Agreements

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Proposed Yukon *Wildlife Act* Amendments Required for Consistency with Yukon First Nation and Gwich'in Final Agreements

Background

Yukon First Nation Final Agreements between the Yukon Government, Canada and four Yukon First Nations came into effect in 1995. Since that time an additional seven Yukon First Nation Final Agreements have been completed. In 1994, the Gwich'in Comprehensive Land Claim Agreement between the Gwich'in and Canada came into effect. The Gwich'in Agreement applies to a portion of northeast Yukon.

These negotiated land claim agreements, which set out the constitutionally-protected rights of Yukon First Nations and the Gwich'in in the Yukon, establish a new wildlife management regime in the Yukon and clarify harvesting rights of Yukon Indian people and Gwich'in.

The *Wildlife Act* is being amended to address the rights and responsibilities as reflected in the Yukon First Nation Final Agreements and the Gwich'in Comprehensive Land Claim Agreement. The proposed amendments are necessary to bring the *Wildlife Act* into conformity with the Agreements, recognizing that the Agreements have legal priority over the *Wildlife Act* and regulations. The proposed amendments will provide clarity in the management of Yukon's wildlife resources.

The attached summary of the proposed amendments to the *Wildlife Act* has been prepared by the Department of Environment. The amendment proposals are not final and may change in response to comments and input received through consultations.

Please provide your comments to:

Claims Implementation and
Aboriginal Affairs Section (V-2)
Department of Environment
Government of Yukon
P.O. Box 2703
Whitehorse, Yukon Y1A 2C6

For more information or for additional copies of this summary of the proposed amendments, call (867) 667-3092, or email environmentyukon@gov.yk.ca

Copies are also available at www.environmentyukon.gov.yk.ca

Proposed Amendments

Description: ..... **Definition of "bylaws"**

Background:

Under section 16.6.10.6 of the Yukon First Nation final agreements, Renewable Resources Councils have the power to make bylaws consistent with the *Wildlife Act*. Under section 16.6.13 of the final agreements, the Yukon government agreed to amend the *Wildlife Act* to enable the making of bylaws by Renewable Resources Councils. As part of those amendments, it is necessary to include a definition of "bylaws".

Proposed *Wildlife Act* Amendment:

Add a definition of "bylaw" to the *Act*, which refers to the term as used in the final agreements.

Description: ..... **Definition of "category 1 trapline" and "category 2 trapline"**

Background:

The final agreements distinguish between two types of traplines. Category 1 traplines are traplines issued under the *Wildlife Act* for which a Yukon First Nation will have final allocation authority. (Designation of a trapline as a category 1 trapline requires the consent of the trapline holder.) Category 2 traplines are traplines for which the Minister of Environment will continue to have the final allocation authority. The *Wildlife Act* currently does not recognize the final allocation authority of Yukon First Nations over category 1 traplines. As part of the amendments necessary to recognize that authority, definitions of "category 1 trapline" and "category 2 trapline" will be added to the *Wildlife Act*.

The *Wildlife Act* applies to commercial harvest of furbearers and a trapping concession is not required for a Yukon Indian Person to harvest furbearers for Subsistence.

Proposed *Wildlife Act* Amendment:

Add definitions of "category 1 trapline" and "category 2 trapline" to the *Act*.

Description: ..... **Definition of "conservation"**

Background:

Currently the only definition of conservation in the *Wildlife Act* is contained in Part 13 dealing with Inuvialuit harvesting rights under the Inuvialuit Final Agreement. Conservation has a different meaning under the Yukon First Nation final agreements and the Gwich'in final agreement. Harvesting rights of Yukon Indian people and Tetlit Gwich'in under final agreements can be limited for purposes of conservation as defined in the final agreements. To ensure that there is clear guidance as to the meaning of conservation as a potential limit on harvesting activities by Yukon Indian people and Tetlit Gwich'in, it is necessary to add the final agreement definition of conservation to the *Act*.

Proposed *Wildlife Act* Amendment:

Add a definition of "conservation" to the new Part of the *Act* as having the same meaning as per the Yukon First Nation final agreements.

Description: .....Definition of "edible wildlife product"

Background: Under the Yukon First Nation and Gwich'in final agreements, the subsistence harvesting rights of Yukon Indian people and Tetlit Gwich'in apply to certain defined edible fish or wildlife products. To ensure that the definition of subsistence that is added to the *Act* accurately reflects the scope of the definition in the final agreements, it is necessary to add a definition of edible wildlife product to the new Part of the *Act*. As the *Wildlife Act* does not cover fish, the definition will be limited to edible wildlife products.

Proposed *Wildlife Act* Amendment: Add a definition of "edible wildlife product" based upon the definition of edible fish or wildlife product contained in the Yukon First Nation final agreements.

Description: .....Definition of "final agreement"

Background: Yukon First Nation final agreements and the Gwich'in final agreement set out the constitutionally protected rights, including wildlife-related rights, of Yukon Indian people and Tetlit Gwich'in. For clarity, those agreements should be defined in the *Wildlife Act*. The defined term will also apply to Yukon First Nation final agreements as they come into effect in the future.

Proposed *Wildlife Act* Amendment: Add a definition of final agreement to the *Act*.

Description: .....Definition of "furbearer"

Background: Under the *Wildlife Act*, the term "fur bearing animal" is defined by regulation. However, under the final agreements a different term, "furbearers", is used. To ensure that the *Wildlife Act* amendments accurately reflect harvesting rights and scope of management responsibilities under the final agreements, it is necessary to address the difference in the Wildlife Regulations listing of fur-bearing animals from the list of "furbearer" as contained in the final agreements.

Proposed *Wildlife Act* Amendment: Review definition of "furbearer" and provisions of *Act* and Regulations to identify amendment that avoids the use of two separate definitions in the *Act*.

Description: .....Definition of "non-edible by-product"

Background: Under the final agreements, Yukon Indian people have the right, subject to laws of general application, to give, trade, barter and sell non-edible by-products of wildlife harvested under final agreement harvesting rights. As the *Wildlife Act* is a law of general application, it can regulate the final agreement right to give, trade, barter and sell non-edible by-products. To accurately reflect the scope of the right under the final agreements and the Yukon government's ability to regulate the exercise of that right, a definition of "non-edible by-product", based upon the definition contained in the final agreements, will be added to the *Act*. The final agreement definition, which applies to fish and wildlife by-products, will be adapted to recognize that the *Wildlife Act* does not apply to fish.

Proposed *Wildlife Act* Amendment: Add a new definition of "non-edible by-product" to the new Part of the *Act*. The definition will be based upon the definition of non-edible by-product contained in the final agreements.

Description: .....Definition of "primary use area and secondary use area"

Background: The Gwich'in final agreement provides for harvesting rights for the Tetlit Gwich'in of the Northwest Territories in part of the northeast Yukon, and for their participation in wildlife management processes in that area. The Gwich'in final agreement distinguishes between a primary use area and a secondary use area, with differing rights applicable in each area. To ensure that the *Wildlife Act* properly reflects the rights of the Tetlit Gwich'in in the two areas, it is necessary to add definitions to the *Act* for those two areas.

Proposed *Wildlife Act* Amendment: Add definitions of "primary use area" and "secondary use area" to the *Act*, taken from the definitions in the Gwich'in final agreement.

Description: .....Definition of "renewable resources council"

Background: The Yukon First Nation final agreements provide for the creation of the renewable resources councils. The renewable resources councils will be referenced in the amendment to the *Act* and therefore a definition should be added for clarity.

Proposed *Wildlife Act* Amendment: Add a definition of "renewable resources council" by way of cross-reference to section 16.6.1 of the Yukon First Nation final agreements that establish the renewable resources councils.

Description: .....Definition of "subsistence"

Background: Yukon Indian people and Tetlit Gwich'in have the right to harvest wildlife in the Yukon for the purposes of subsistence. The term subsistence is defined in final agreements to include traditional and ceremonial uses of edible wildlife products, but to exclude other uses of wildlife. To ensure that the *Wildlife Act* amendments accurately reflect harvesting rights under final agreements, a definition of "subsistence" is needed.

Proposed *Wildlife Act* Amendment: Add a definition of "subsistence" to the new Part. The definition will be taken from the definition of subsistence in Yukon First Nation final agreements.

Description: .....Definition of "Tetlit Gwich'in"

Background: Under Appendix C of the Gwich'in final agreement, the Tetlit Gwich'in of the Northwest Territories have ownership of 600 square miles of land in northeast Yukon, and have defined harvesting rights and rights to participate in wildlife management processes in the primary use area and secondary use area. For clarity, the *Wildlife Act* amendments will include a definition for "Tetlit Gwich'in" to refer to those individuals exercising their rights under Appendix C of the Gwich'in final agreement.

Proposed *Wildlife Act* Amendment: Add a definition of "Tetlit Gwich'in" to the *Act*. The definition will be taken from Appendix C of the Gwich'in final agreement.

Description: ..... **Definition of "total allowable harvest"**

Background:

Under the final agreements, Yukon Indian people and Tetlit Gwich'in have a general right to harvest wildlife for subsistence. That right applies where no conservation limits have been imposed on the number of animals that can be hunted. The final agreements recognize, however, that in some cases it may be necessary for the Yukon government to limit harvesting activities by all people where necessary to provide for the long-term sustainability of wildlife populations.

The final agreements provide for the process that the Yukon government must follow, in consultation with the Fish and Wildlife Management Board, renewable resources councils and Yukon First Nations, in determining the total number of animals of a wildlife population that can safely be harvested while meeting the long-term needs for conservation. That number is called the total allowable harvest.

The final agreements also set out how the total allowable harvests will be shared between Yukon Indian people and Tetlit Gwich'in and other wildlife harvesters in the Yukon. Yukon First Nations and the Tetlit Gwich'in will have the right to allocate to their members the portion of the total allowable harvest that they are entitled to under their final agreements.

For clarity, a definition of "total allowable harvest" will be added to the new Part of the *Act*. As the process for establishing total allowable harvests varies between final agreements, and as final agreements contain differing formulas for sharing of total allowable harvests, the amendments to the *Act* will enable the Yukon government to make regulations on a First Nation-by-First Nation basis so that the process for establishing total allowable harvests and the formula for allocating total allowable harvests can be tailored to the situation of each First Nation and its final agreement.

Proposed *Wildlife Act* Amendment:

Add a definition of "total allowable harvest" to the new Part of the *Act*, taken from the definition in the final agreements.

Description: ..... **Definition of "traditional territory"**

Background:

The rights of Yukon Indian people and Yukon First Nations under their final agreements extend throughout the geographic area known as their "traditional territory". To ensure that the *Wildlife Act* accurately reflects the geographic scope of Yukon First Nation rights under Yukon First Nation final agreements, a definition of "traditional territory" is required.

Proposed *Wildlife Act* Amendment:

Add a definition of "traditional territory" to the new Part of the *Act* as having the same meaning as provided for in the First Nation Final Agreements.

Description: ..... **Definition of "wildlife"**

Background: While the *Wildlife Act* contains a definition of wildlife, the term is defined differently under Yukon First Nation and the Tetlit Gwich'in final agreements. Harvesting and management rights under the final agreements apply to wildlife as defined in those agreements.

Proposed *Wildlife Act* Amendment: To amend the definition of wildlife for consistency with final agreements and to provide a distinction in the definition to accommodate broader management requirements under the *Wildlife Act.*

Description: ..... **Definition of "Yukon Fish and Wildlife Management Board"**

Background: The Yukon First Nation final agreements provide for the creation of the Yukon Fish and Wildlife Management Board. The Board will be referenced in the amendments to the *Act,* therefore a definition should be added for clarity.

Proposed *Wildlife Act* Amendment: Add a definition of "Yukon Fish and Wildlife Management Board" to the new Part of the *Act,* by way of cross-reference to section 16.7.1 of the Yukon First Nation final agreements.

Description: ..... **Definition of "Yukon Indian person" and "Yukon Indian people"**

Background: Under the Yukon First Nation final agreements, Yukon Indian people have special constitutionally guaranteed harvesting rights. The amendments to the *Act* are intended to bring the *Wildlife Act* into conformity with those special harvesting rights. For clarity, definitions of "Yukon Indian person" and "Yukon Indian people" are needed.

Proposed *Wildlife Act* Amendment: Add definitions of "Yukon Indian person" and "Yukon Indian people" to the *Act,* taken from the definitions in the Yukon First Nation final agreements.

Description: ..... **New Part of *Act* dealing with final agreements**

Background: In order to make the amendments to the *Wildlife Act* as easy to understand as possible, it is proposed to group most of the amendments needed to implement the final agreements into a new Part of the *Act.* This approach was followed with success in carrying out the amendments to the *Wildlife Act* required to implement the provisions of the Inuvialuit Final Agreement. Amendments dealing with the harvesting rights of Yukon Indian people and Tetlit Gwich'in and with new fish and wildlife management structures (the Fish and Wildlife Management Board and renewable resources councils) will be set out in the new Part.

Proposed *Wildlife Act* Amendment: Add a new Part XX to the *Wildlife Act.* The location of the new Part is intended to reflect, among other things, the importance of the amendments to the *Act* as a whole.

(XX denotes Part number to be determined when legislation is passed.)

Description: ..... **Relationship of new Part to other provisions of *Act***

Background:

The new Part of the *Act* will implement the harvesting rights and wildlife management participation rights of Yukon Indian people, Tetlit Gwich'in and First Nations. While the amendments in the new Part will seek to avoid conflicts or inconsistency with other provisions of the *Act*, it will still be necessary to address the possibility of a conflict between Parts of the *Act*. In keeping with the requirements of the final agreements, Part XX of the *Act* will override any conflicting provisions in the rest of the *Act*.

The one exception to that rule is Part 13. Part 13 of the *Act* implements the rights of the Inuvialuit under the Inuvialuit Final Agreement. The Yukon First Nation final agreements recognize, in section 2.6.2.5, that the Inuvialuit Final Agreement takes priority over Yukon First Nation final agreements if there is any conflict or inconsistency. While it is not anticipated that there will be a conflict between Part XX and Part 13, the amendments will ensure that Part 13 prevails, as required by the Yukon First Nation final agreements.

Proposed *Wildlife Act* Amendment:

Add a section to Part XX which makes the provisions of Part XX override conflicting provisions elsewhere in the *Act*, with the exception of Part 13.

Add a section to Part XX which recognizes that a provision of Part 13 will take priority over a provision of Part XX, if there is a conflict between the two.

Description: ..... **Subsistence harvesting rights of Yukon Indian people and Tetlit Gwich'in**

Background:

Under the *Wildlife Act*, hunting is generally prohibited except as specifically permitted under the *Act* (e.g., through the acquisition of a licence or permit). The final agreements take a different approach. Section 16.4.2 of the Yukon First Nation final agreements and section 12.3.1 of Appendix C of the Gwich'in final agreement recognize a general right to harvest that is held by Yukon Indian people and Tetlit Gwich'in. That right to harvest is subject to regulation by government only where it is required for purposes of conservation, public health or public safety.

To reflect the general right to hunt under final agreements, the *Act* will be amended to add a provision recognizing the general right of Yukon Indian people and Tetlit Gwich'in to harvest wildlife within their traditional territories and, with the consent of the affected Yukon First Nation, in other Yukon First Nations' traditional territories.

Proposed *Wildlife Act* Amendment:

Add a provision to the new Part recognizing the general right of Yukon Indian people and Tetlit Gwich'in to harvest wildlife for subsistence within the limits set out in the final agreements. The provision would recognize that the general right to harvest for subsistence is subject to regulation by government where required for conservation, public health or public safety.

Description: .....Methods of harvest under final agreements

Background:

Under section 16.4.3 of the Yukon First Nation final agreements and section 12.3.2 of Appendix C of the Gwich'in final agreement, Yukon Indian people and Tetlit Gwich'in have the right to use traditional and current methods of harvesting when exercising their subsistence harvesting rights under the final agreements. This general right can be regulated by the Yukon government where required for conservation, public health or public safety. However, there could be a conflict between the general right to use traditional and current methods of harvesting and the limits on harvesting methods set out in other parts of the *Wildlife Act*, including Part 1 in particular.

In order to clarify the relationship between the general right to use traditional and current methods of hunting under final agreements on the one hand, and the existing restrictions on hunting methods under the *Wildlife Act*, a provision will be added to the new Part XX to recognize the general right to use traditional and current methods of harvesting with exercising subsistence harvesting rights under final agreements, and to provide for limitations to be imposed on those methods of harvesting where required for conservation, public health or public safety.

Proposed *Wildlife Act* Amendment:

Add a provision to the new Part XX recognizing the right of Yukon Indian people and Tetlit Gwich'in to use traditional and current methods of harvesting when exercising subsistence harvesting rights under final agreements.

Add a provision to the new Part XX that recognizes that the right of Yukon Indian people and Tetlit Gwich'in to use traditional and current methods of harvesting for subsistence harvesting is subject to restrictions imposed under other sections of the *Act* and under regulations under the *Act*, where those restrictions are required for conservation, public health or public safety and where they have been imposed in accordance with final agreements.

Description: ..... **Possession of wildlife from subsistence harvests**

Background:

Under section 16.4.6 of the final agreements, the right to harvest for subsistence includes the right to possess harvested wildlife and the right to transport harvested wildlife within the Yukon. For clarity, these ancillary rights to the general right to harvest for subsistence will be set out in the new Part of the *Act*. Under section 16.3.3 of the final agreements, the right to possess and transport wildlife harvested for subsistence can be regulated by government where required for conservation, public health or public safety.

In addition, under section 12.3.6 of the Gwich'in final agreement, the right to harvest for subsistence also includes the right to transport harvested wildlife from the Yukon into other jurisdictions like the Northwest Territories. Under the *Wildlife Act*, removal of wildlife products from the Yukon requires an export permit. In addition, under the federal *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act*, it is an offence to transport an animal or part of an animal from one province or territory to another without permits. Most harvesting by Gwich'in will occur in the primary use area and secondary use area in the northeast Yukon. As there are no conservation officers or government offices in the primary use area or secondary use area, it would be practically difficult to require Tetlit Gwich'in to obtain export permits under the *Wildlife Act* prior to transporting wildlife to the Northwest Territories.

To address these problems, the *Wildlife Act* will be amended to permit the transport to the Northwest Territories of wildlife and wildlife products harvested for subsistence in the Yukon by Tetlit Gwich'in. Tetlit Gwich'in harvesters will be deemed to have export permits authorizing the removal of wildlife products harvested for subsistence to the Northwest Territories. The Yukon government will be given the power to impose conditions on those deemed export permits where required for conservation, public health or public safety. This is the same approach that was taken to address this issue for Inuvialuit harvesting on the Yukon North Slope under the Inuvialuit Final Agreement.

Proposed *Wildlife Act* Amendment:

Add a provision to Part XX recognizing the right to possess and transport wildlife harvested pursuant to the exercise of subsistence harvesting rights.

Add a provision to Part XX recognizing the Yukon government's power to regulate methods of wildlife harvesting where required for conservation, public health or public safety.

Add a provision to Part XX which deems Tetlit Gwich'in harvesters who are transporting to the Northwest Territories wildlife products harvested in the Yukon under Appendix C of the Gwich'in final agreement to have export permits issued under the *Wildlife Act* subject to such conditions as may be prescribed by the Commissioner in Executive Council.

Add a provision to Part XX which allows the Commissioner in Executive Council to make regulations prescribing conditions on deemed export permits as may be required for conservation, public health or public safety.

Add a provision to Part XX which requires Tetlit Gwich'in to comply with prescribed conditions of deemed export permits in order for the export of wildlife products to be lawful under the *Wildlife Act*.

Description: .....Identifying eligible subsistence harvesters

Background:

Subsistence harvesting rights under final agreements only apply to Yukon Indian people and Tetlit Gwich'in. Where they are harvesting in another Yukon First Nation's traditional territory, they will need the permission of that Yukon First Nation. Where total allowable harvests have been established for a species, they will need to have been allocated the right to participate in that harvest.

It will be important for conservation officers in the field to know whether hunters they meet in the field are Yukon Indian people [or Tetlit Gwich'in] who are hunting in accordance with their final agreements. At the same time, the Yukon government recognizes the need to develop means of identifying eligible harvesters in a manner that are sensitive to the traditions of individual Yukon First Nations and the Tetlit Gwich'in and that are not unnecessarily intrusive on Yukon Indian people and Tetlit Gwich'in exercising traditional harvesting activities, particularly elders. To provide flexibility in developing means of identification of eligible subsistence harvesters on a First Nation-by-First Nation basis, the *Wildlife Act* will be amended to give the Yukon government the power to make regulations respecting identification of eligible subsistence harvesters. This will allow the Yukon government to work with Yukon First Nations and the Tetlit Gwich'in to develop procedures consistent with final agreements for verifying that individuals engaged in subsistence harvesting activities are doing so lawfully.

Section 115 requires persons who hold authorizations under the *Wildlife Act* to show them to conservation officers when requested. Section 115 will have to be amended to reflect the fact that special rules for identification of eligible subsistence harvesters may be established through regulations made under Part XX and that any such requirements be without fee

Proposed *Wildlife Act* Amendment:

Add a provision to Part XX which allows the Commissioner in Executive Council to make regulations respecting the identification of eligible subsistence harvesters.

Amend section 115 of the *Act* to reflect possible regulations under Part XX respecting identification of subsistence harvesters.

Description: ..... **Renewable Resources Council bylaws**

Background:

Under section 16.6.10.6 of the Yukon First Nation final agreements, Renewable Resources Councils have the power to make bylaws consistent with the *Wildlife Act*. Under section 16.6.13 of the final agreements, the Yukon government agreed to amend the *Wildlife Act* to enable the making of bylaws by Renewable Resources Councils. Bylaws made by Renewable Resources Councils must be consistent with the *Wildlife Act*.

The *Wildlife Act* will be amended to allow Renewable Resources Councils to make bylaws under the *Act*. The amendments will ensure that bylaws are consistent with the *Act* and any regulations made under the *Act*.

Proposed *Wildlife Act* Amendment:

Add a provision to the new Part of the *Act* that enables Renewable Resources Councils to make bylaws under the *Act*.

Add a provision to the new Part of the *Act* that requires bylaws to be consistent with the *Act* and regulations made under the *Act*, and which clarifies approval requirements and that the *Act* and regulations made under the *Act* will prevail over bylaws if there is any conflict.

Description: ..... **Establishment and implementation of total allowable harvests**

Background:

Each Yukon First Nation final agreement sets out the process that must be followed when the Yukon government want to limit subsistence harvesting due to concerns about low population numbers. The process varies from final agreement to final agreement. As well, the process only applies when the Yukon government determines, based on recommendations of the Fish and Wildlife Management Board and the relevant Renewable Resources Council, that harvesting limits are needed for conservation purposes for a specific species or population of wildlife. Final agreements also set out how total allowable harvests will be shared between Yukon First Nation harvesters and other harvesters in the Yukon. Under Yukon First Nation final agreements, Yukon First Nations have the right to sub-allocate total allowable harvests among their members.

To provide flexibility under the *Act* to cope with the differing processes under Yukon First Nation final agreements and the uncertainty over whether, where and when total allowable harvests will be needed in the future, the amendments to the *Act* will not contain the processes for establishing and allocating total allowable harvests. Instead, the amendments will give the Yukon government the power to make regulations when and as needed in the future, if it is necessary to implement a total allowable harvest for a species or population of wildlife within a Yukon First Nation's traditional territory. The process for deciding on the need for a total allowable harvest and for allocation and sub-allocation of a total allowable harvest will have to be consistent with each Yukon First Nation's final agreement.

Proposed *Wildlife Act* Amendment:

Add a provision which allows the Yukon government to make regulations required to implement the total allowable harvest provisions of Yukon First Nation final agreements. The provision will allow regulations for the establishment of total allowable harvests on a Yukon First Nation-by-Yukon First Nation basis and population-by-population basis.

Description: .....Impact of Tetlit Gwich'in non-residency

Background:

The *Wildlife Act* provides for differing rights and responsibilities for resident hunters and non-resident hunters. Resident hunters are defined as those who have resided in the Yukon for a defined period of time. Under this definition, Tetlit Gwich'in harvesters would be considered non-residents and would be subject to more onerous regulation under the *Wildlife Act*. Such treatment would conflict with some of their harvesting rights under the Gwich'in final agreement. Therefore certain provisions of the *Wildlife Act* will be amended so that Tetlit Gwich'in who are exercising their rights under the Gwich'in final agreement will not be considered non-residents under the *Act*.

Proposed *Wildlife Act* Amendment:

Amend section 40 to provide that it does not apply to Tetlit Gwich'in who are exercising their harvesting rights under the Gwich'in final agreement.

Amend section 42 to provide that a Tetlit Gwich'in who is harvesting in the Yukon under the Gwich'in final agreement is considered to be a resident for the purposes of paragraph 42(1)(b).

Description: .....Setting traps for subsistence harvesting

Background:

Under section 60 of the *Wildlife Act*, it is illegal to set a trap without authorization under the *Wildlife Act*. This prohibition may conflict with the subsistence harvesting rights of Yukon Indian people and Tetlit Gwich'in under their final agreements.

To ensure consistency with final agreements, it is necessary to amend section 60 to provide for an exception for setting of traps for subsistence harvesting purposes.

Proposed *Wildlife Act* Amendment:

Amend section 60 to provide for an exception for setting of traps for subsistence harvesting purposes by Yukon Indian people and Tetlit Gwich'in in accordance with Yukon First Nation and the Gwich'in final agreements.

Description: .....Wastage of pelts from subsistence harvest of fur-bearing animals.

Background:

Under section 33 of the *Wildlife Act*, it is illegal to waste the pelt of a furbearing animal. This prohibition may conflict with the subsistence harvesting rights of Yukon Indian people and Tetlit Gwich'in under their final agreements.

To ensure consistency with final agreements, it is necessary to amend section 33 to provide for an exception for wastage of a pelt from an animal harvested for subsistence purposes.

Proposed *Wildlife Act* Amendment:

Amend section 33 to provide for an exception for wastage of pelts from fur-bearing animals when harvested for subsistence purposes.

Description: .....Allocation of trapping concessions

Background:

Under section 61 of the *Wildlife Act*, the Minister of Environment has the power to issue trapping concessions. Under section 72 of the *Act*, the Minister can refuse to issue concessions for any reason the Minister considers valid.

Each Yukon First Nation has the final allocation authority for vacant category 1 traplines. In addition, Renewable Resources Councils have a role in recommending suitable candidates for vacant trapping concessions. The Minister's powers under sections 61 and 72 do not recognize the allocation authority of Yukon First Nations, and need to be amended for consistency with the final agreements. In addition, the amendment to section 72 will need to address the overlapping roles of Renewable Resources Councils and the Concession and Compensation Review Board, with the aim being to avoid overlap to the extent possible.

Under section 75 of the *Act*, the Minister has the power to refuse to re-issue trapping concession, or to limit the term of a re-issued trapping concession, for three defined reasons. To recognize the role of renewable resources councils in making recommendations on re-issuance of trapping concession, section 75 will be amended to allow the Minister to refuse to re-issue, or limit the term of a re-issued trapping concession, upon the recommendation of the affected renewable resources council.

Proposed *Wildlife Act* Amendment:

Amend section 61 to require the Minister to issue a trapping concession to a qualified trapper to whom a vacant category 1 trapline has been allocated by a Yukon First Nation.

Amend section 72 to provide for the role of Renewable Resources Councils in making recommendations for the allocation of trapping concessions, and to clarify the respective roles of Renewable Resources Councils and the Concession and Compensation Review Board.

Amend section 75 to provide for Minister refusal to re-issue a trapping concession. Or to limit the term or a re-issued trapping concession, based on the recommendation of the affected renewable resources council.

Description: ..... **Effect of trapping concession**

Background:

Under section 62 of the *Wildlife Act,* the granting of a trapping concession gives the holder of the concession the exclusive right to trap within the concession area. This may conflict with subsistence trapping by Yukon Indian people and Tetlit Gwich'in under their final agreements.

Section 62 will have to be amended to clarify that the granting of a concession only gives the holder of the concession the exclusive right to trap for commercial purposes within the concession area. This will avoid legal conflict with subsistence trapping in the same area.

Proposed *Wildlife Act* Amendment:

Amend section 62 to clarify that the granting of a trapping concession reserves to the holder of the concession the exclusive opportunity to trap furbearing animals for commercial purposes.

Amend section 62 to ensure that it does not apply to subsistence harvesting of furbearers by Yukon Indian people and Tetlit Gwich'in in accordance with their final agreements.

Description: ..... **Removal of traps**

Background:

Under section 66 of the *Wildlife Act,* the holder of a trapping concession may remove traps set within the trapping concession by other people. This could create a conflict with Yukon Indian people and Tetlit Gwich'in who are trapping for subsistence purposes as allowed under their final agreements. Section 66 will have to be amended so that traps set for lawful subsistence harvesting purposed may not be removed.

Proposed *Wildlife Act* Amendment:

Amend section 66 to provide that a person may remove traps set within the person's trapping concessions in the circumstances set out in the regulations.

Amend section 66 to allow the Yukon government to make regulations addressing when a trapping concession holder may remove traps within the concession area set by other trappers.